FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Bannister Investments, Ltd.
DOCKET NO.: 08-21174.001-C-2
PARCEL NO.: 14-28-318-076-0000

The parties of record before the Property Tax Appeal Board are Bannister Investments, Ltd., the appellant(s), by attorney Donald T. Rubin, of Rubin & Norris in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** in the assessment of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$ 93,802
IMPR.:	$ 439,901
TOTAL:	$ 533,703

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2008 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one and part two-story building of masonry construction with 8,512 square feet of building area. The building is 70 years old. The property has an 8,512 square foot site, and is located in Lake View Township, Cook County. The subject is classified as a class 5-17 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of $935,000 as of January 1, 2008.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $533,703. The subject's assessment reflects a market value of $1,404,482, or $165.00 per square foot of building area, including land, when applying the 2008 statutory level of assessment for commercial property under the Cook County Real Property Assessment Classification Ordinance of 38.00%. In support of its contention of the correct assessment, the board of review submitted information on nine comparable sales from the CoStar Comps Service.

In rebuttal, the appellant reaffirmed the evidence previously submitted, and argued that the board of review's comparables should be given no weight for various reasons.

At hearing, counsel for the appellant conducted a direct examination of Ms. Ibi Cole, M.A.I. Ms. Cole testified that she holds the M.A.I. designation, and that she is certified as a general certified appraiser by the State of Illinois. Ms. Cole further testified that she has experience in appraising properties similar to the subject, and that she prepared an appraisal of the subject with a valuation date of January 1, 2008.

Ms. Cole then testified to the subject's descriptive features. The appraiser testified that the subject has "a super adequacy of size," which, she further explained, meant that the subject was too large for a single user. Ms. Cole testified, however, that due to the subject's irregular shape, the subject's improvement was not amenable to being divided among multiple users. The subject's irregular shape also prevented it from having on-site parking or a rear-loading door or dock. Ms. Cole stated that all these factors contributed to the subject's functional obsolescence.

Ms. Cole next testified that she estimated a market value for the subject under the cost approach to value. Ms. Cole stated that she arrived at a value of $910,000, rounded, under the cost approach, but that she did not primarily rely on this approach. Instead, Ms. Cole testified that she conducted a cost approach analysis to support the values adopted in the income and sales comparison approaches.

Ms. Cole next testified that she estimated a market value for the subject under the income approach to value. Ms. Cole stated that she selected five properties as rental comparables, and that she made several adjustments to the comparables, but that no adjustment was made for location. Ms. Cole testified that she concluded that the subject's market rent was $17.50 per square foot, and that the subject's annual potential gross income was $148,960. Ms. Cole estimated the subject's vacancy and expenses to be $33,352, and deducted this figure from the subject's potential gross income, to arrive at the subject's net operating income of $93,264. A capitalization rate of 10.00% was then utilized to arrive at an estimated value of $935,000, rounded, under the income approach to value. Ms. Cole stated that she relied on the income approach in reaching a final estimate of value for the subject.

Ms. Cole next testified that she estimated a market value for the subject under the sales comparison approach to value. Ms. Cole stated that she selected six properties as sales comparables, and that she made several adjustments to the comparables, including adjustments for improvement size, age, condition, and land-to-building ratio. Ms. Cole stated that no adjustments were made for property rights conveyed, financing terms, conditions of sale, market conditions, location, and access and visibility. Ms. Cole testified that she concluded that the subject's market value was $110.00 per square foot, or $935,000, rounded, under the sales comparison approach, and that she relied on the sales comparison approach in reaching a final estimate of value for the subject.

Ms. Cole testified that she reconciled the estimated market values determined under the cost, income, and sales comparison approaches to value. She placed secondary emphasis on the income approach and primary emphasis on the sales comparison approach in arriving at a final estimated market value for the subject of $935,000 as of January 1, 2008.

On cross-examination the Assistant Cook County State's Attorney began by questioning Ms. Cole about her experience in appraising free-standing commercial properties. Ms. Cole stated that she had done over 50 appraisals for commercial properties between 2005 and 2008. Ms. Cole then testified that she inspected the subject, and prepared and wrote the entire appraisal report submitted by the appellant. The assistant state's attorney then questioned Ms. Cole about the neighborhood surrounding the subject, and Ms. Cole admitted that the neighborhood is "a solid

commercial area," and that the neighborhood residents' median income is "near the highest in the City" of Chicago. Ms. Cole also admitted that the neighborhood has high density levels, and that real estate prices for residential and retail properties in the neighborhood are strong and stable.

The assistant state's attorney then queried Ms. Cole regarding the descriptive characteristics of the subject, including the subject's street frontage, floor-to-ceiling windows, visibility, and condition. Ms. Cole testified that the subject's street frontage is 100 feet, that the subject has large picture windows (not floor-to-ceiling windows), that the subject's visibility is good, and that the subject is in average condition. Ms. Cole also testified that the subject has no parking, including street parking.

Ms. Cole then answered questions regarding the rental comparables she used under the income approach to value, and testified that the comparables were listings of rental terms, and not actual leases in place. She also testified that the vacancy rate in the income approach was derived from market data and through experience as an appraiser.

The assistant state's attorney then questioned Ms. Cole about the sales comparables used in the appraisal. Ms. Cole admitted that these comparables were all located outside the subject's neighborhood, that each comparable was located in a different market, and that she did not know the median incomes or average home prices for the neighborhoods where the comparables were located. Ms. Cole re-emphasized that she made no adjustment for location to any of the six sales comparables because they were all located within the City of Chicago.

During the board of review's case-in-chief, the Assistant Cook County State's Attorney re-affirmed the evidence previously submitted. In rebuttal, counsel for the appellant re-emphasized the arguments raised in the appellant's written rebuttal brief.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code

§1910.65(c). The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

In the appraisal report and at hearing, Ms. Cole stated that the neighborhood where the subject is located is Lincoln Park in the City of Chicago, and that the eastern portion of Lincoln Park is "a higher income residential community." In support of this assertion, the report states that "[n]ew developments are more upscale and have brought neighborhood people back from the suburbs." Moreover, the report states that the rents charged in Lincoln Park "are high as compared to other north side communities," partly because "the demand to locate [in Lincoln Park] is strong and this [demand] has pushed rents upward." The report also states that "Lincoln Park is primarily populated by upper-middle income households," with a local median household income of $68,613, "which is in the high end of the range of the surrounding communities." The report further states that the "median household income statistic shows the strength of the Lincoln Park community." The report concludes that the "Lincoln Park community is an area that benefited from renovation and redevelopment and property values have been steadily increasing with a stable demand for residential property and complementary retail facilities." The report also states that the sales comparables "are considered to be located in similar locations as compared to the subject," and "none of the sales were adjusted" for location.

Contrary to the appraisal and Ms. Cole's testimony at hearing, the Board finds that the sales comparables used in the appraisal report are not similar to the subject in terms of their location. The Board recognizes that the Uniform Standards for Professional Appraisal Practice ("USPAP") do not require that comparable properties be located within a certain radius of the subject. Instead, comparable properties must be located in similar areas. Thus, it is possible to have a viable comparable property located some distance away from the subject, as long as the area around the comparable is similar to the area around the subject. If the areas are dissimilar, it may be appropriate to compensate for the difference by adjusting the comparable's sale price.

In this appeal, the appraiser wrote six pages describing the Lincoln Park neighborhood in Chicago. These pages, as summarized above, stated that Lincoln Park is a mostly upscale and desired neighborhood. The median income and rents charged are some of the highest in Chicago. Thus, it follows that

comparable sales must come from a similarly upscale area, whether or not the comparables are located in Lincoln Park, unless they are adjusted for location.

The sales comparables used by the appraiser, as Ms. Cole admitted at hearing, were not located in Lincoln Park, and were all located in different neighborhoods across Chicago. The question becomes, then, whether these neighborhoods are similar to Lincoln Park. Admittedly, not every neighborhood in Chicago is as upscale as Lincoln Park, nor does every neighborhood have such a high median income. In fact, according to the appraisal, Lincoln Park's median income is over $10,000 higher than the next highest neighboring area's median income, and is 78% higher than the median income of the City of Chicago as a whole. The neighborhood's median income is relevant to this commercial appeal, because, as the appraisal states, the high price of real estate correlates to a demand for complimentary, higher end retail establishments. Therefore, it would appear that Lincoln Park is a unique neighborhood, with few neighborhoods in Chicago that compare to its upscale nature.

While the appraisal does not specify the neighborhood conditions of the sales comparables, the Board finds that, more likely than not, these neighborhoods are not comparable to Lincoln Park. However, the Board does not rule that these neighborhoods are dissimilar. Instead, the Board is finding that, because of Lincoln Park's unique stature among Chicago neighborhoods, and the strong diversity of neighborhoods across the City of Chicago, it seems unlikely that the five sales comparables are all located in neighborhoods similar to Lincoln Park.

As such, the Board finds that an adjustment for location would be required for each comparable sale. The appraisal explicitly states that no adjustments were made to any of the comparables for differences in location. Ms. Cole explained her rational for foregoing such an adjustment at hearing, when she stated that no adjustment was needed because all the sales comparables were located in the City of Chicago. The Board is not persuaded that the City of Chicago is so homogenous that each and every area is similar to Lincoln Park, and in particular, that the locations of the sales comparables found in the appraisal are similar to Lincoln Park.

There is no competent evidence in the record for the Board to use in applying an adjustment for location. None of the appellant's sales comparables are located in Lincoln Park, or, so far as the Board can tell, in a neighborhood similar to

Lincoln Park. Moreover, the board of review's sales comparables are not verified, and most occurred a significant time prior to the January 1, 2008 lien date. Therefore, based on this record, the Board is unable to apply an appropriate adjustment for location. For these reasons, the Board finds that the subject is not overvalued, and that a reduction in the subject's assessment is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: June 20, 2014

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.